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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

§ CUSTOMER No.: 34533

Date: January 20, 2000  
 Date: Catherine Berglund  
 Catherine Berglund

**DECLARATION OF PRIOR INVENTION IN THE UNITED STATES  
OR IN A NAFTA OR WTO MEMBER COUNTRY  
TO OVERCOME CITED PATENT OR PUBLICATION (37 C.F.R. § 1.131)**

### PURPOSE OF DECLARATION

1. This declaration is to establish completion of the invention of this application in the United States at a date prior to February 16, 2001, that is the effective date of the U.S. Patent Application Publication that was cited by the Examiner. The U.S. Patent Application Publication that was cited by the Examiner is Padawer, et al, U.S. Pub. No. 2002/0115476.
2. The persons making this declaration are the inventors.

## FACTS AND DOCUMENTARY EVIDENCE

3. To establish the date of completion of the invention of this application, the following attached document is submitted as evidence: International Business Machine Corporation's internal invention disclosure document, Disclosure Number AUS8-2001-0443, created by inventor Bill Bodin on March 9, 2001 and last modified on March 9, 2001. From this disclosure document, it can be seen that the invention in this application was made at least by February 1, 2001, which is the effective date of the reference.

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#### DILIGENCE

4. The following facts establish the diligence of the applicants, from the time of their conception of the present invention, to a time just prior to the date of the reference, up to the filing of this application:
- When the invention was conceived, all the inventors were employees of the International Business Machine Corporation ("IBM"). IBM is the assignee of the present invention. As shown by the attached IBM Disclosure Number AUS8-2001-0443, the inventors had a complete conception of the present invention by at least February 1, 2001.
  - In May 2001, IBM conducted a search of the prior art pertinent to this invention, analyzed the search results, and identified Biggers & Ohanian, LLP, as outside counsel for preparation of a patent application for this invention.
  - The invention was assigned by IBM to outside patent counsel for preparation of a patent application on May 8, 2001.
  - Between May 2001 and October 2001, outside patent counsel worked with the inventors to develop a patent application. The patent application for the invention was completed by outside patent counsel on October 16, 2001.
  - IBM completed formal documents to accompany the application, obtained inventor signatures on the formal documents, and filed the application for this invention in the USPTO on January 15, 2002.

All these steps were taken in the ordinary course of patenting as typically practiced by IBM, IBM's employees, and IBM's outside patent counsel with no undue delay.

#### TIME OF PRESENTATION OF THE DECLARATION

5. This declaration is submitted prior to final rejection.

#### DECLARATION

6. As a person signing below:

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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